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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/593,786	06/14/2000	Ivan Henri Robert Darius	SOL002	7757
25962 7590 06/27/2008 SLATER & MATSIL, L.L.P. 17950 PRESTON RD, SUITE 1000 DALLAS, TX 75252-5793				
EXAMINER COLBERT, ELLA				
ART UNIT		PAPER NUMBER		
3696				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/593,786

Applicant(s)

DARIUS ET AL.

Examiner

Ella Colbert

Art Unit

3696

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Paper No(s)/Mail Date: _____
- 6) ☐ Notice of Informal Patent Application
- 7) ☐ Other: _____

DETAILED ACTION

1. Claims 1-6 are pending in the communication filed 3/31/08 entered as Response After Non-Final Action. There were no claims amended.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claim 1 is rejected under 35 U.S.C. 102(a) as being anticipated by (US 6,233,566) Levine et al, hereafter Levine.

Claim 1. Levine discloses, A method operative on a web server to facilitate a web-based information exchange between a broker and a set of wholesale lenders, comprising: exposing to the broker a-set-of at least one generic mortgage lender profile over said web-based information exchange, the at least one generic mortgage lender profile simultaneously exposing generic mortgage profile information for a plurality of different specific wholesale lenders (col. 3, lines 7-49); applying a given generic mortgage lender profile to data to identify a set of one or more specific wholesale lenders who meet criteria specified in the given data, responsive to entry by the broker of the given data (col. 3, line 50-col. 4, line 32); and exposing to the broker a specific mortgage lender profile instantiated with a set of unique lender characteristics for use by the broker in completing a mortgage transaction over said web-based information

exchange, responsive to selection by the broker of one of the specific wholesale lenders (col. 8, lines 18-65, col. 9, lines 21-52, and col. 10, line 54-col. 12, line 32).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 6,233,566) Levine et al, hereafter Levine in view of (US 2004/0002915) McDonald et al, hereafter McDonald.

Claim 2. Levine failed to disclose, The method as described in Claim 1 wherein the set of unique lender characteristics includes a rate sheet. McDonald discloses, The method as described in Claim 1 wherein the set of unique lender characteristics includes a rate sheet (page 5, col. 1 [0099] and page 7, col. 2 [0160]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the teachings of McDonald in Levine because such an incorporation would allow Levine to get the current rates from the broker/lender over the Internet or over the telephone.

Claim 3. Levine failed to disclose, The method as described in Claim 1 wherein the set of unique lender characteristics includes an eligibility matrix. McDonald discloses, method as described in Claim 1 wherein the set of unique lender characteristics includes an eligibility matrix (page 6, col. 1 [0114], [0115], [0124], and [0125]). It would have been obvious to one having ordinary skill in the art at the time the invention was

made to incorporate the teachings of McDonald in Levine because such an incorporation would allow Levine to know whether the broker/lender has a license to be a broker.

Claim 4. Levine and McDonald failed to disclose, The method as described in Claim 1 wherein the set of unique lender characteristics includes a lock sheet. Lock sheets are old and well-known in the art of mortgages and brokering. A broker lock sheet contains a lock date and lock period when the mortgage or loan is locked in at a certain percentage rate.

Claim 5. Levine failed to disclose, The method as described in Claim 1 further including the step of displaying to the broker mortgage rates and prices. McDonald discloses, The method as described in Claim 1 further including the step of displaying to the broker mortgage rates and prices (page 7, col. 2 [0166]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the teachings of McDonald into Levine because such an incorporation would allow Levine to know if the loan is to be a "No Point, NoFee" and a calculation of applicable credits if any.

Claim 6. Levine discloses, The method as described in Claim 1 further including the step of having the broker lock a loan online (col. 15, lines 53-57).

Response to Arguments

Applicant's arguments filed 03/31/08 have been fully considered but they are not persuasive.

Issue no. 1: Applicants' argue: Nowhere does Levine address exposing "one or more generic lender profiles", it is self-evident that Levine also fails to teach or even suggest the claim limitations that "the at least one generic mortgage lender profile simultaneously exposing generic mortgage profile information from a plurality of different specific wholesale lenders", "applying a given generic mortgage profile to given data to identify a set of one or more specific wholesale lenders who meet criteria specified in the given data", a "broker", nothing in the referenced section address or even hints that a "specific mortgage lender profile" with "unique lender characteristics" is exposed to the broker, and a "specific mortgage lender profile instantiated with a set of unique lender characteristics for use ... in completing a mortgage transaction ... responsive to the selection by the broker of one of the specific lenders" have been considered but are not persuasive. Response: There are several sections in Levine that address exposing "one or more generic lender profiles". Although Levine does not use the term exposing "one or more generic lender profiles" in col. 21, lines 41-48 – "subscribers (mortgage lenders) each have a profile archive in system 200" and in col. 22, lines 49-59 – "a similar graph can be generated after the buyer performs a search to show only those loans that meet the search criteria. The summary may also include information such as weighted averages of FICO score, loan term, loan rate, combined loan-to-value ratio, and debt ratio of loans in the pool. This information can be generated both before and after a buyer performs a search "which is interpreted as the unique lender characteristics (profile) since this is the type of loans the lender is willing

to purchase from a seller. Furthermore, the reference only needs to show one lender and not more than one lender because of the claim limitation wording.

The Examiner does not find in Applicants' specification reference to a specific mortgage lender profile being instantiated with a set of unique lender characteristics for use ... in completing the mortgage transaction.

Issue no. 2: Applicants' argue: Levine effectively teaches away from claim 1 since the limitations from claim 1 are incorporated into claims 2-6 has been considered but is not persuasive. Response: [A] reference will teach away if it suggest that the line of development flowing from the reference's disclosure is unlikely to be productive of the result sought by the applicant. *In re Gurley*, 31 USPQ2d 1130 (Fed. Cir. 1994).

Issue no. 3: Applicants' argue: Examiner has nowhere identified, and Applicants' are unaware of any teaching or suggestion in McDonald that overcomes the numerous shortcomings of Levine as an invalidating reference and hence, claims 2-6 are patentable distinct over the combination of Levine and McDonald has been considered but is not persuasive. Response: McDonald was used to reject the dependent claims which discloses the claim limitations of claims 2-6. Although the PTO must give claims their broadest reasonable interpretation, this interpretation must be consistent with the one that those skilled in the art would reach. *In re Cortright* 49 USPQ2d 1464, 1467 (Fed. Cir. 1999). "Having established that this knowledge was in the art, the Examiner could then properly rely, as put forth by the solicitor, on a conclusion of obviousness 'from common knowledge and common sense of the person of ordinary skill in the art

without any specific hint or suggestion in a particular reference. *In re Bozek*, 163 USPQ 545 (CCPA 1969).

The court has consistently taken the tack that claims yet unpatented are to be given the broadest reasonable interpretation consistent with the specification during the examination of a patent application since the applicant may then amend his claims, the thought being to reduce the possibility that, after the patent is granted, the claims may be interpreted as giving broader coverage than is justified. *In re Prater*, 162 USPQ 541 (CCPA 1969).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741.

The examiner can normally be reached on Monday, Tuesday, and Thursday, 5:30AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dixon Thomas can be reached on 571-272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ella Colbert/
Primary Examiner, Art Unit 3696

June 23, 2008

Application Number**Application/Control No.**

09/593,786

**Applicant(s)/Patent under
Reexamination**

DARIUS ET AL.

Examiner

Ella Colbert

Art Unit

3696